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SERIAL NUMBER 0772787136	FILING DATE 11/30/88	FIRST NAMED INVENTOR DE THE	ATTORNEY DOCKET NO. H PAST059C
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EXAMINER

BLUMIN, A	ART UNIT	PAPER NUMBER
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185

DATE MAILED:

01/31/90

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

- ☐ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 0 month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-56 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-56 are subject to restriction or election requirement.
7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-14, 24-34, 38-56, drawn to DNA, method of cloning, vector, cells, classified in Class 536; 435, subclass 27; 172.3, respectively.

II. Claims 15-24, 35-37, drawn to polypeptide and method of use, classified in Class 530; 435, subclass 350; 7, respectively.

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different products, or (2) the product as claimed can be made by another and materially different process. (MPEP 806.05(f)).

In the instant case, the peptides can be produced by a separate process such as by chemical synthesis.

Because these inventions are distinct for the reasons given above, and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter and the search required for Group I is not required for Group II restriction for examination purposes as indicated is proper.

Serial No. 278136

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Art Unit 185

A telephone call was made to Kenneth Myers on 1/22/90 to request an oral election to the above restriction requirement, but did not result in an election being made.

Any inquiry concerning this communication should be directed to Dr. A. Brown at telephone number 703-557-0908.

Brown/bg

1-29-90

AB
1/30/90

A handwritten signature, possibly reading "AB", is written in dark ink.